

**ENTERED**

September 20, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

UNITED STATES OF AMERICA, §  
§  
VS. § CIVIL ACTION NO. 7:20-CV-00403  
§  
0.604 ACRES OF LAND, MORE OR §  
LESS, *et al*, §  
§  
Defendants. §

**ORDER DETERMINING TITLE AS TO TRACT RGV-RGC-1040**

Now before the Court is the issue as to who holds title to Tract RGV-RGC-1040 (“subject property”). Federal courts overseeing condemnation cases have the authority to determine who holds title amongst parties before a land’s condemnation. *Florida Beaches v. Niagara Inv. Co.*, 148 F.2d 963, 964 (5th Cir. 1945); *United States v. 22,680 Acres of Land*, 438 F.2d 75, 77 (5th Cir. 1971); *Clark v. White*, 185 F.2d 528, 530 (5th Cir. 1950). Federal courts look to the substantive law of the state in which the subject property is located to resolve a title dispute. See *United States ex. Rel. T.V.A. v. Powelson*, 319 U.S. 266, 279 (1943). When there are multiple parties claiming ownership of the land, it is on the party to show their claim to the land. *United States v. Lee*, 360 F.2d 449, 452 (5th Cir. 1966). After considering the Government’s briefing (Dkt. No. 26), arguments heard at the Title Hearing held on September 9, 2021, and the applicable law, the Court finds the following.

Plaintiff acquired title to a fee simple estate of 0.604 acres of the property on December 21, 2020. See 40 U.S.C. § 3114(b)(1); *United States v. 162.20 Acres of Land, More or Less, Situated in Clay Cty., State of Miss.*, 639 F.2d 299, 303 (5th Cir. 1981) (“[T]he filing of a declaration of taking and deposit of estimated compensation vests title in the United States,

accomplishing the taking."); (Dkt. Nos. 2, 8). The following parties were identified as having an interest in the property: (1) Argus Resources, Inc.; (2) Unknown Heirs of Higinio Rodriguez; (3) Esperanza Rodriguez; (4) Zulema Rodriguez; (5) Higinio Rodriguez, Jr.; (6) Efrain Rodriguez; (7) Juan Manuel Rodriguez; (8) Israel Rodriguez, Jr.; (9) Balbina Rodriguez Prado; (10) Unknown Heirs of Geronimo Hinojosa; and (11) Starr County Tax Assessor-Collector Ameida Salinas. (Dkt. No. 2, Schedule G). Argus Resources, Inc. and the Tax Assessor disclaimed an interest in the property and have been dismissed from this action. (Dkt. Nos. 6, 25).

In 1941, the subject property was conveyed to Higinio Rodriguez. *Id.* at ¶ 17. Higinio Rodriguez died in October 1968 and was married to Pomposa Gonzalez, who died in June 1968. *Id.* at ¶ 18. They had four known children: Alberto Rodriguez, Esperanza Rodriguez, Zulema Rodriguez, and Higinio Rodriguez, Jr. No estate or probate documentation was found for Higinio Rodriguez, so title vested in the heirs of Higinio Rodriguez and Pomposa Gonzalez, their four known children, and any unknown children. *Id.*

On December 11, 2020, the day after the complaint was filed, Balbina Rodriguez Prado advised the Government that Higinio Rodriguez and Pomposa Gonzalez had four additional children: Balbina Rodriguez Prado (herself), Efrain Rodriguez, Juan Manual Rodriguez, and Israel Rodriguez. *Id.* The United States has not obtained an Affidavit of Heirship memorializing the additional children. *Id.*

In 1991, Alberto Rodriguez, one of the known children, conveyed his right, title and interest *in surface only* to Adrian Rodriguez. *Id.* at ¶ 19. Adrian Rodriguez conveyed all his right, title and interest to Balbina Rodriguez Prado in 2013. *Id.*

An Affidavit of Heirship filed on November 13, 2013 in Starr County stated that Israel Rodriguez, an unconfirmed potential heir of Higinio Rodriguez, died intestate. *Id.* at ¶ 20.

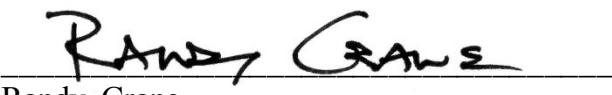
Matthew Rodriguez, Jerry Rodriguez, and Israel Rodriguez, Jr. were Israel Rodriguez's only descendants. *Id.* Matthew and Jeramas AKA Jeremy AKA Jerry Rodriguez deeded their interest, if any, they inherited from their father, Israel Rodriguez, to Argus Resources, Inc. by virtue of a Quit Claim Deed dated March 24, 1999. *Id.* As noted above, the United States filed a notice of disclaimer for named party Defendant, Argus Resources, Inc., on December 14, 2020. *Id.*

The known defendants have avoided contact with the United States Attorney's Office since the beginning of 2021. *Id.* at ¶ 22. The United States has been unable to communicate with Balbina Rodriguez Prado's counsel since March 15, 2021. *Id.* Balbina Rodriguez Prado appeared at the title hearing held on September 9, 2021.

The Government indicates that Balbina Rodriguez Prado is in possession of at least an undivided 1/8 interest in the subject property. *Id.* at ¶ 23. The remaining 7/8 interest in the subject property belongs to the known heirs and unknown heirs of Higinio Rodriguez, Jr., which may include, but is not limited to: Esperanza Rodriguez, Zulema Rodriguez, Higinio Rodriguez, Jr., Balbina Rodriguez Prado, Efrain Rodriguez, Juan Manual Rodriguez, and Israel Rodriguez, Jr.

Accordingly, for purposes of this condemnation proceeding only, the Court finds that the owners of the subject property at the time of the subject taking were Esperanza Rodriguez (3/22 undivided interest), Zulema Rodriguez (3/22 undivided interest), Higinio Rodriguez, Jr. (3/22 undivided interest), Balbina Rodriguez Prado (3/11 undivided interest), Efrain Rodriguez (3/22 undivided interest), Juan Manuel Rodriguez (3/22 undivided interest), and Israel Rodriguez, Jr. (1/22 undivided interest).

SO ORDERED this 20th day of September, 2021, at McAllen, Texas.

  
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Randy Crane  
United States District Judge